

Title 36

Local Government

TITLE 36. LOCAL GOVERNMENT

IC 36-1-4-19

Applicability of parking ordinances, zoning ordinances, and other requirements in Vanderburgh County

Sec. 19. (a) As used in this section, "subject property" refers to the property in Vanderburgh County within the Northwest Quarter of Section 26, Township 6 South, Range 10 West.

(b) An ordinance of a unit that regulates the parking of motor vehicles is not applicable within the subject property.

(c) A zoning ordinance of a unit is not applicable within the subject property.

(d) Any requirements for municipal roads or streets do not apply to a road or street within the subject property.

As added by P.L.195-2001, SEC.13. Amended by P.L.33-2003, SEC.

IC 36-1-6-2

Real property; action to bring compliance; expense as lien against property

Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, officers of the municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into compliance. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) two thousand five hundred dollars (\$2,500) for real property that:

(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) ten thousand dollars (\$10,000) for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) If the owner of the real property fails to pay a bill issued under subsection (b), the municipal corporation may, after thirty (30) days, certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.50-2002, SEC.1; P.L.144-2003, SEC.1; P.L.177-2003, SEC.2.

IC 36-1-7-3

Agreements; contents; powers under agreements

Sec. 3. (a) An agreement under this section must provide for the following:

(1) Its duration.

(2) Its purpose.

(3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget therefor.

(4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination.

(5) Administration through:

(A) a separate legal entity, the nature, organization, composition, and powers of which must be provided; or

(B) a joint board composed of representatives of the entities that are parties to the agreement, and on which all parties to

the agreement must be represented.

(6) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking, whenever a joint board is created under subdivision (5)(B).

In addition, such an agreement may provide for any other appropriate matters.

(b) A separate legal entity or joint board established by an agreement under this section has only the powers delegated to it by the agreement. The agreement may not provide for members, directors, or trustees of the separate legal entity or joint board to make appointments (either individually or jointly) to fill vacancies on the separate legal entity or joint board.

(c) Subsection (a)(6) does not apply to an emergency management assistance compact under IC 10-14-5.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.56-1988, SEC.11; P.L.30-1998, SEC.3; P.L.2-2003, SEC.99.

IC 36-1-7-7

Agreements; law enforcement or firefighting services

Sec. 7. (a) Except as provided in subsection (c), if an agreement under section 3 of this chapter concerns the provision of law enforcement or firefighting services, the following provisions apply:

(1) Visiting law enforcement officers or firefighters have the same powers and duties as corresponding personnel of the entities they visit, but only for the period they are engaged in activities authorized by the entity they are visiting, and are subject to all provisions of law as if they were providing services within their own jurisdiction.

(2) An entity providing visiting personnel remains responsible for the conduct of its personnel, for their medical expenses, for worker's compensation, and if the entity is a volunteer fire department, for all benefits provided by IC 36-8-12.

(b) A law enforcement or fire service agency of a unit or of the state may request the assistance of a law enforcement or fire service agency of another unit, even if no agreement for such assistance is in effect. In such a case, subsection (a)(1) and (a)(2) apply, the agency requesting assistance shall pay all travel expenses, and all visiting personnel shall be supervised by the agency requesting assistance.

(c) This subsection applies to a law enforcement officer that visits another state after a request for assistance from another state under the emergency management compact is made under IC 10-14-5. A law enforcement officer that visits another state does not have the power of arrest unless the law enforcement officer is specifically authorized to exercise the power by the receiving state.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.28-1988, SEC.115; P.L.229-1996, SEC.1; P.L.30-1998, SEC.4; P.L.1-1999, SEC.80; P.L.2-2003, SEC.100.

IC 36-1-8-5

Funds raised by general or special tax levy; disposition of unused balance; transfers to local rainy day fund

Sec. 5. (a) This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.

(b) Whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

(1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.

(2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.

(3) Funds of a township for redemption of poor relief obligations, to the poor relief fund of the township or rainy day fund of the township, as provided in section 5.1 of this chapter.

(4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township; but if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the

debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) Transfers to a political subdivision's rainy day fund must be made after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.251-2001, SEC.1; P.L.173-2003, SEC.18

IC 36-1-8-5.1 Version a

Rainy day funds established by political subdivisions

Note: This version of section amended by P.L.173-2003, SEC.19. See also following version of this section amended by P.L.267-2003, SEC.15.

Sec. 5.1. (a) A political subdivision may establish a rainy day fund by the adoption of:

- (1) an ordinance, in the case of a county, city, or town; or
- (2) a resolution, in the case of any other political subdivision.

(b) An ordinance or a resolution adopted under this section must specify the following:

- (1) The purposes of the rainy day fund.
- (2) The sources of funding for the rainy day fund.
- (c) The rainy day fund is subject to the same appropriation process as other funds that receive tax money.
- (d) In any fiscal year, a political subdivision may transfer not more than ten percent (10%) of the political subdivision's annual budget for that fiscal year, adopted under IC 6-1.1-17, to the rainy day fund.
- (e) A political subdivision may use only the funding sources specified in the ordinance or resolution establishing the rainy day fund unless the political subdivision adopts a subsequent ordinance or resolution authorizing the use of another funding source.
- (f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

As added by P.L.251-2001, SEC.2. Amended by P.L.90-2002, SEC.461; P.L.173-2003, SEC.19

IC 36-1-8-5.1 Version b

Rainy day fund; uses

Note: This version of section amended by P.L.267-2003, SEC.15. See also preceding version of this section amended by P.L.173-2003, SEC.19.

Sec. 5.1. (a) A political subdivision may establish a rainy day fund to receive transfers of unused and unencumbered funds under:

- (1) section 5 of this chapter;
- (2) IC 6-3.5-1.1-21.1;
- (3) IC 6-3.5-6-17.3; and
- (4) IC 6-3.5-7-17.3.

(b) The rainy day fund is subject to the same appropriation process as other funds that receive tax money. Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.

(c) In any fiscal year, a political subdivision may transfer under section 5 of this chapter not more than ten percent (10%) of the political subdivision's total budget for that fiscal year to the rainy day fund.

(d) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

As added by P.L.251-2001, SEC.2. Amended by P.L.90-2002, SEC.461; P.L.267-2003, SEC.15

IC 36-1-8-11

Methods of payments to subdivisions or utilities

Sec. 11. (a) This section does not apply to a county treasurer governed by IC 36-2-10-23.

(b) As used in this section, "credit card" means a:

- (1) credit card;
- (2) debit card;
- (3) charge card; or
- (4) stored value card.

(c) A payment to a political subdivision or a municipally owned utility for any purpose may be made by any of the following financial instruments that the fiscal body of the political subdivision or the board of the municipally owned utility authorizes for use:

- (1) Cash.
- (2) Check.
- (3) Bank draft.
- (4) Money order.
- (5) Bank card or credit card.
- (6) Electronic funds transfer.
- (7) Any other financial instrument authorized by the fiscal body.

(d) If there is a charge to the political subdivision or municipally owned utility for the use of a financial instrument, the political subdivision or municipally owned utility may collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(e) If authorized by the fiscal body of the political subdivision or the board of the municipally owned utility, the political subdivision or municipally owned utility may accept payments under this section with a bank card or credit card under the procedures set forth in this section. However, the procedure authorized for a particular type of payment must be uniformly applied to all payments of the same type.

(f) The political subdivision or municipally owned utility may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards.

(g) The political subdivision or municipally owned utility may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card under this subsection.

(h) The authorization of the fiscal body of the political subdivision is not required by the bureau of motor vehicles or the bureau of motor vehicles commission to use electronic funds transfer or other financial instruments to transfer funds to the political subdivision.

As added by P.L.40-1996, SEC.5. Amended by P.L.18-1996, SEC.32; P.L.2-1997, SEC.78; P.L.173-2003, SEC.20

IC 36-1-11-5

Sale of real property having certain value or less; rights of abutting landowners; procedures

Sec. 5. (a) As used in this section, "abutting landowner" means an owner of property that:

(1) touches, borders on, or is contiguous to the property that is the subject of sale; and

(2) does not constitute a:

- (A) public easement; or
- (B) public right-of-way.

(b) As used in this section, "offering price" means the appraised value of real property plus all costs associated with the sale, including:

- (1) appraisal fees;
- (2) title insurance;
- (3) recording fees; and
- (4) advertising costs.

(c) If the assessed value of a tract of real property to be sold is less than fifteen thousand dollars (\$15,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent may proceed under this section.

(d) The disposing agent may determine that:

- (1) the highest and best use of the tract is sale to an abutting landowner;
- (2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or
- (3) it is economically unjustifiable to sell the tract under section 4 of this chapter.

(e) Within ten (10) days after the disposing agent makes a determination under subsection (d), the disposing agent shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

- (1) the property may not be sold to a person who is ineligible under section 16 of this chapter; and
- (2) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:
 - (A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the disposing agent shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The disposing agent shall also have each tract appraised. The appraiser must be professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than six thousand dollars (\$6,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent is not required to have the tract appraised.

(g) If, within ten (10) days after the date of publication of the notice under subsection (e), the disposing agent receives an eligible offer to purchase a tract listed in the notice at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract under section 4(c) through 4(g) of this chapter.

(h) Notwithstanding subsection (g), if within ten (10) days after the date of publication of the notice under subsection (e) the disposing agent does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract as follows:

(1) If only one (1) abutting landowner makes an eligible offer to purchase the tract, then subject to section 16 of this chapter and without further appraisal or notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (e)(2).

(3) If no eligible abutting landowner submits an offer to purchase the tract, the disposing agent may sell the tract to any person who submits the highest offer for the tract, except a person who is ineligible to purchase the tract under section 16 of this chapter.

As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.47-1983, SEC.5; P.L.332-1985, SEC.1; P.L.333-1985, SEC.1; P.L.60-1988, SEC.27; P.L.336-1989(ss), SEC.47; P.L.165-1994, SEC.4; P.L.170-2003, SEC.17

IC 36-1-12-14

Contracts in excess of \$100,000; retaining portions of payments; escrow agreements; performance bond; payment on substantial completion; actions against surety; contracts less than \$250,000

Sec. 14. (a) This section applies to public work contracts in excess of one hundred thousand dollars (\$100,000) for projects other than highways, roads, streets, alleys, bridges, and appurtenant structures situated on streets, alleys, and dedicated highway rights-of-way. This section also applies to a lessor corporation qualifying under IC 21-5-11 or IC 21-5-12 or any other lease-back arrangement containing an option to purchase, notwithstanding the statutory provisions governing those leases.

(b) A board that enters into a contract for public work, and a contractor who subcontracts parts of that contract, shall include in their respective contracts provisions for the retainage of portions of payments by the board to contractors, by contractors to subcontractors, and for the payment of subcontractors. At the discretion of the contractor, the retainage shall be held by the board

or shall be placed in an escrow account with a bank, savings and loan institution, or the state as the escrow agent.

The escrow agent shall be selected by mutual agreement between board and contractor or contractor and subcontractor under a written agreement among the bank or savings and loan institution and:

(1) the board and the contractor; or

(2) the subcontractor and the contractor.

The board shall not be required to pay interest on the amounts of retainage that it holds under this section.

(c) To determine the amount of retainage to be withheld, the board shall:

(1) withhold no more than ten percent (10%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed, and nothing further after that; or

(2) withhold no more than five percent (5%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.

If upon substantial completion of the public work minor items remain uncompleted, an amount computed under subsection (f) of this section shall be withheld until those items are completed.

(d) The escrow agreement must contain the following provisions:

(1) The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent.

(2) The escrow agent shall hold the escrowed principal and income until receipt of notice from the board and the contractor, or the contractor and the subcontractor, specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After receipt of the notice, the escrow agent shall remit the designated part of escrowed principal and the same proportion of then escrowed income to the person specified in the notice.

(3) The escrow agent shall be compensated for the agent's services. The parties may agree on a reasonable fee comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income.

The escrow agreement may include other terms and conditions consistent with this subsection, including provisions authorizing the escrow agent to commingle the escrowed funds with funds held in other escrow accounts and limiting the liability of the escrow agent.

(e) The contractor shall furnish the board with a performance bond equal to the contract price. If acceptable to the board, the performance bond may provide for incremental bonding in the form of multiple or chronological bonds that, when taken as a whole, equal the contract price. The surety on the performance bond may not be released until one (1) year after the date of the board's final settlement with the contractor. The performance bond must specify that:

(1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;

(2) a defect in the public work contract; or

(3) a defect in the proceedings preliminary to the letting and awarding of the public work contract; does not discharge the surety.

(f) The board or escrow agent shall pay the contractor within sixty-one (61) days after the date of substantial completion, subject to sections 11 and 12 of this chapter. Payment by the escrow agent shall include all escrowed principal and escrowed income. If within sixty-one (61) days after the date of substantial completion there remain uncompleted minor items, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until the item is completed. Required warranties begin not later than the date of substantial completion.

(g) Actions against a surety on a performance bond must be brought within one (1) year after the date of the board's final settlement with the contractor.

(h) This subsection applies to public work contracts of less than two hundred fifty thousand dollars (\$250,000). The board may waive the performance bond requirement of subsection (e) and accept from a contractor an irrevocable letter of credit for an equivalent amount from an Indiana financial institution approved by the department of financial institutions instead of a performance bond. Subsections (e) through (g) apply to a letter of credit submitted under this subsection.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.70-1989, SEC.3; P.L.43-2003, SEC.1

IC 36-4-1-4

Change of status; town to city; procedure

Sec. 4. If a town has a population of more than two thousand (2,000), it may change into a city in the following manner:

(1) The town legislative body may adopt a resolution submitting to the town's voters the question of whether the town should change into a city. The legislative body shall adopt such a resolution if at least the number of the registered voters of the town required under section 4.1 of this chapter petition it to do so. The legislative body shall file a copy of the resolution with the clerk of the circuit court for each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.

(2) The resolution must fix a date for an election on the question. If the election is to be a special election, the date must be not less than thirty (30) nor more than sixty (60) days after the notice of the election. If the election is to be on the same date as a general election, the resolution must state that fact and be certified in accordance with IC 3-10-9-3.

(3) Notice of the election must be given by the clerk of the circuit court in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(4) The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the town of _____ change into a city?"

(5) If a majority of those voting on the question vote "yes", the town changes into a city when its officers are elected and qualified; otherwise the town remains a town.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.2, SEC.15; Acts 1981, P.L.44, SEC.39; P.L.5-1986, SEC.42; P.L.3-1987, SEC.553; P.L.12-1995, SEC.127; P.L.3-1997, SEC.453; P.L.68-2003, SEC.1

IC 36-4-1-4.1

Petition for resolution; number of signatures

Sec. 4.1. (a) A petition for a resolution under section 4 of this chapter must be signed by the number of registered voters of the town equal to at least ten percent (10%) of the total vote cast at the last election for secretary of state.

(b) In determining the number of signatures required under this section, any fraction that exceeds a whole number must be disregarded.

As added by P.L.68-2003, SEC.2.

IC 36-6-4

Chapter 4. Township Executive

IC 36-6-4-14

Expiration of term; delivery of funds, property, and annual report; submission to inquiries at annual meeting

Sec. 14. When his term of office expires, the executive shall:

(1) immediately deliver to the new executive custody of all funds and property of the township, except records necessary in the preparation of his annual report;

(2) deliver to the new executive, not later than the second Monday in the next January, his annual report and any records he has retained; and

(3) attend the annual meeting of the township legislative body held under IC 36-6-6-9 and submit to inquiries from the legislative body concerning the operation of the executive's office during the preceding calendar year.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.173-2003, SEC.27.

IC 36-6-4-19

Sec. 19. The township executive may pay township funds for the purpose of supporting a drug awareness program that is implemented in schools.

As added by P.L.2-1997, SEC.83.

IC 36-6-6-14.5

Objection by taxpayers; department of local government finance hearing and action; appeal

Sec. 14.5. (a) If the legislative body issues a special order under section 14 of this chapter authorizing the executive to borrow money, not less than ten (10) taxpayers in the township who disagree with the special order may file a petition in the office of the county auditor not more than thirty (30) days after notice of the special order is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the special order to be unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the county where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the township and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing.

(e) A:

(1) taxpayer who signed a petition filed under subsection (a); or

(2) township against which a petition under subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the date of the

department's final determination.

As added by P.L.41-1993, SEC.49. Amended by P.L.90-2002, SEC.472; P.L.256-2003, SEC.37

IC 36-6-7-3

Annual appropriations for offices; payments on vouchers

Sec. 3. The legislative body shall make annual appropriations for assistants in township offices. Payments shall be made to assistants on vouchers verified by the claimant and approved by the officer in whose office he is employed.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.173-2003, SEC.28.

IC 36-6-8-11

Assessor; claims for compensation by deputies and employees

Sec. 11. (a) Deputies and other employees of a township assessor must file their claims for compensation, which must be verified by the township assessor. Claims for employment that is not on an annual basis must show the actual number of days employed. Deputies and other employees of a township assessor shall be paid out of the county treasury, on the warrant of the county auditor.

(b) Employees of the township assessor are entitled to no compensation other than that provided by this chapter.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.173-2003, SEC.29.

IC 36-7-11.5

Chapter 11.5. Historic Hotel Preservation

IC 36-7-11.5-1

Definitions

Sec. 1. (a) As used in this chapter, "commission" refers to the historic hotel preservation commission established by an interlocal agreement under section 3 of this chapter.

(b) Except as provided in section 11 of this chapter, "fund" refers to the community trust fund established by section 8 of this chapter.

(c) As used in this chapter, "historic hotel" has the meaning set forth in IC 4-33-2-11.1.

(d) As used in this chapter, "qualified historic hotel" refers to a historic hotel that has an atrium that includes a dome that is at least two hundred (200) feet in diameter.

As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-2

Application; interlocal agreement

Sec. 2. (a) This chapter applies to a town that satisfies either of the following criteria:

(1) The town contains a qualified historic hotel.

(2) The town contains a historic hotel and is adjacent to another town containing a qualified historic hotel.

(b) The towns described in subsection (a) may enter into an interlocal agreement under IC 36-1-7 to establish a historic hotel district under this chapter. The historic hotel district:

(1) may not include any area outside the county of the towns that enter into the interlocal agreement; and

(2) consists solely of the real property that is:

(A) owned by the historic hotels; and

(B) part of the tract of land (as defined in IC 6-1.1-1-22.5) that includes the parcel or parcels of land upon which the historic hotel building is located.

As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-3

Requirements of ordinance establishing interlocal agreement membership of historic hotel preservation commission; terms; requirements

Sec. 3. (a) An ordinance establishing an interlocal agreement under section 2 of this chapter:

(1) must provide for the establishment of a historic hotel preservation commission in the same manner as IC 36-7-11;

(2) shall specify which powers under IC 36-7-11 the commission may exercise in administering the historic hotel district; and

(3) may not conflict with a requirement of this chapter.

If any provision in IC 36-7-11 conflicts with this chapter, the provisions of this chapter control.

(b) The ordinance must provide for the following membership on the historic hotel preservation commission:

(1) An individual appointed by the legislative body of the county in which the towns are located.

(2) An individual appointed by the convention and visitor's bureau of the county in which the towns are located.

(3) An individual appointed by the town council of a town meeting the criteria set forth in section 2(a)(1) of this chapter.

(4) An individual appointed by the town council of a town meeting the criteria set forth in section 2(a)(2) of this chapter.

(5) An individual appointed by the Historic Landmarks Foundation of Indiana.

(6) The owner of a qualified historic hotel or the owner's designee.

(7) The owner of a historic hotel located in a town meeting the criteria set forth in section 2(a)(2) of this chapter or the owner's designee.

(8) A nonvoting member appointed by the governor.

(c) The members described in subsection (b)(1) through (b)(5) shall each serve for a term of three (3) years.

However, the terms of the original voting members may be for one (1) year, two (2) years, or three (3) years in order for the terms to be staggered, as provided by the ordinance. A vacancy shall be filled for the duration of the term by the original appointing authority.

(d) The ordinance may provide qualifications for members of the commission described in subsection (b)(1) through (b)(4). In addition, the members appointed under subsection (b)(1) through (b)(4) must be residents of the county who are interested in the preservation and development of historic areas. The commission should include professionals in the tourism industry and professionals in the disciplines of architectural history, planning, and other disciplines related to historic preservation, to the extent that those professionals are available in the community. The ordinance may also provide for the appointment of advisory members that the legislative body considers appropriate.

(e) Each member of the commission must, before beginning the discharge of the duties of the member's office, do the following:

(1) Take an oath that the member will faithfully execute the duties of the member's office according to Indiana law and rules adopted under Indiana law.

(2) Provide a bond to the state that:

(A) is for twenty-five thousand dollars (\$25,000); and

(B) is, after being executed and approved, recorded in the office of the secretary of state.

(f) A member of the commission is not entitled to a salary per diem or reimbursement for traveling expenses or other expenses incurred in connection with the member's duties.

As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-4

Administrator

Sec. 4. The ordinance adopted under this chapter may:

(1) designate an officer or employee of a town to which this chapter applies to act as administrator;

(2) permit the commission to appoint an administrator who shall serve without compensation except reasonable expenses incurred in the performance of the administrator's duties; or

(3) provide that the commission act without the services of an administrator.

As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-5

Commission rules; required meetings

Sec. 5. (a) The commission shall elect from its membership a chairperson and vice chairperson, who shall serve for one (1) year and may be reelected.

(b) The commission shall adopt rules consistent with this chapter for the transaction of its business. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. Four (4) voting members constitute a quorum of the commission. No action may be taken by the commission unless a majority of the voting members appointed to the commission vote in favor of taking the action.

(c) All meetings of the commission must be open to the public, and a public record of the commission's resolutions, proceedings, and actions must be kept.

(d) If the commission has an administrator, the administrator shall act as the commission's secretary. If the

commission does not have an administrator, the commission shall elect a secretary from its membership.
(e) The commission shall hold regular meetings, at least monthly, except when it has no business pending.
As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-6

Funds of commission

Sec. 6. (a) Money acquired by the commission is subject to the laws concerning the deposit and safekeeping of public money.

(b) The money of the commission and the accounts of each officer, employee, or other person entrusted by law with the raising, disposition, or expenditure of the money or part of the money are subject to examination by the state board of accounts.

As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-7

Powers and responsibilities

Sec. 7. (a) Except as otherwise specified in this chapter, the commission has all of the powers and responsibilities of a historic preservation commission established under IC 36-7-11.

(b) The commission shall do the following:

(1) Designate a fiscal agent who must be the fiscal officer of one (1) of the towns to which this chapter applies.

(2) Employ professional staff to necessary assist the commission in carrying out its duties.

(3) Engage consultants, attorneys, accountants, and other professionals necessary to carry out the commission's duties.

(4) Jointly approve, with the Indiana gaming commission, the location and exterior design of a riverboat to be operated in the historic hotel district.

(5) Make recommendations to the Indiana gaming commission concerning the selection of an operating agent (as defined in IC 4-33-2-14.5) that the commission believes will:

(A) promote the most economic development in the area surrounding the historic hotel district; and

(B) best serve the interests of the residents of the county in which the historic hotel district is located and all other citizens of Indiana.

(6) Make recommendations to the Indiana gaming commission concerning the operation and management of the riverboat to be operated in the county.

(c) This section does not limit the powers of the Indiana gaming commission with respect to the administration and regulation of riverboat gaming under IC 4-33.

As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-8

Community trust fund

Sec. 8. (a) The community trust fund is established.

(b) The fund consists of the following:

(1) Money disbursed from the commission.

(2) Donations.

(3) Interest and dividends on assets of the fund.

(4) Money transferred to the fund from other funds.

(5) Money from any other source.

(c) The commission shall manage and develop the fund and the assets of the fund.

(d) The commission shall do the following:

(1) Establish a policy in accordance with subsection (g) for the investment of the fund's assets.

(2) Perform other tasks consistent with prudent management and development of the fund.

(e) Subject to the investment policy of the commission, the fiscal agent appointed by the commission shall administer the fund and invest the money in the fund.

(f) The expenses of administering the fund and implementing this chapter shall be paid from the fund.

(g) Money in the fund that is not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund.

As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-9

Allocations from community trust fund

Sec. 9. The commission has the sole authority to allocate money from the fund. Money allocated from the fund may be used only for the following purposes:

- (1) Infrastructure projects in the county.
- (2) Historic preservation or restoration projects in the community.
- (3) Other projects designed to enhance the historic character of the surrounding community, including projects in areas of the county that are not within the district.

As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-10

Annual report

Sec. 10. (a) The commission shall prepare an annual report concerning the fund and submit the report to the legislative council before October 1 of each year.

(b) The annual report must include the following:

- (1) A list of the projects completed during the preceding calendar year for which funds were distributed under section 9 of this chapter.
- (2) If applicable, evidence of compliance with the United States Secretary of the Interior's standards for historic rehabilitation.
- (3) A list of the projects related to the restoration, repair, or maintenance of the exterior, interior, and landscape features of the historic hotels located in the historic hotel district.
- (4) A list of the projects that may be initiated in the ensuing calendar year related to the restoration, repair, or maintenance of the exterior, interior, and landscape features of the historic hotels located in the historic hotel district.

As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-11

West Baden Springs historic hotel preservation and maintenance fund

Sec. 11. (a) As used in this section, "fund" refers to the West Baden Springs historic hotel preservation and maintenance fund established by subsection (b).

(b) The West Baden Springs historic hotel preservation and maintenance fund is established. The fund consists of the following:

- (1) Amounts deposited in the fund under IC 4-33-12-6(c) and IC 4-33-13-5(b).
 - (2) Grants and gifts that the department of natural resources receives for the fund under terms, obligations, and liabilities that the department considers appropriate.
 - (3) The one million dollar (\$1,000,000) initial fee paid to the gaming commission IC 4-33-6.5.
- The fund shall be administered by the department of natural resources. The expenses of administering the fund shall be paid from money in the fund.
- (c) The treasurer of state shall invest the money in the fund that is not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. The treasurer of state shall deposit in the fund the interest that accrues from the investment of the fund.
 - (d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.
 - (e) No money may be appropriated from the fund except as provided in this subsection. The general assembly may appropriate interest accruing to the fund to the department of natural resources only for the following purposes:
 - (1) To maintain the parts of a qualified historic hotel that were restored before July 1, 2003.
 - (2) To maintain the grounds surrounding a qualified historic hotel.

No money may be appropriated from the fund for restoration purposes if the restoration is to occur after July 1, 2003.

As added by P.L.92-2003, SEC.62.